

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 DAVID RUSSELL MYRLAND,)
)
 Defendant.)

NO. CR11-0057RSM

UNITED STATES' SENTENCING
MEMORANDUM

I. INTRODUCTION

The United States of America, by and through Jenny A. Durkan, United States Attorney, and Vincent T. Lombardi, Assistant United States Attorney, respectfully recommends a sentence of 48 months, which is significantly below the properly calculated advisory Guideline range. Defendant David Myrland repeatedly threatened to “arrest” government officials he believed had somehow wronged him, and further threatened to use “deadly force” if those officials resisted “arrest.”

In today’s heated climate, intemperate statements and threats to government officials are unfortunately not uncommon. What distinguishes Defendant from the garden-variety threat case is that he was not just acting by himself. Instead, Mr. Myrland involved other individuals in the so-called “Sovereign Citizen” movement, who shared his odd belief system. After Mr. Myrland’s arrest on similar state charges, many of these

1 other individuals continued to advance similar threats on Defendant's behalf. In short, it
2 appears that he intended to carry through on his threats.

3 Equally worrisome, Mr. Myrland was repeatedly contacted while armed, has
4 access to firearms, and is a confirmed drug user. The evidence shows that Mr. Myrland
5 has been making a living for years by other criminal conduct, specifically tax fraud and
6 the unauthorized practice of law.

7 Last, but not least, Mr. Myrland to this day appears to believe that he was in the
8 right. Based on continued failure to truly accept responsibility for his conduct, it appears
9 that he will remain a danger after his release. A lengthy sentence is therefore necessary.

10 **II. BACKGROUND.**

11 **A. THE OFFENSE CONDUCT.**

12 Mr. Myrland plead guilty to one count of making a threat via interstate
13 communications, in violation of 18 U.S.C. § 875(c). Mr. Myrland has repeatedly
14 threatened to "arrest" Kirkland government officials he believes have somehow wronged
15 him, and further threatened to use "deadly force" if those officials resist his arrest.

16 **1. Myrland's Original Arrest by Kirkland.**

17 While Mr. Myrland's vendetta against Kirkland officials apparently extends
18 back many years, the most recent precipitating event was on August 10, 2010, when Mr.
19 Myrland was observed driving without a license plate. He was pulled over, and found to
20 be driving without a driver's license as well. On the front passenger seat, Myrland had a
21 9mm semiautomatic pistol with a loaded magazine. During the course of the stop,
22 Myrland repeatedly claimed that he was not subject to Washington State laws regarding
23 driving, and stated that if he was placed under arrest for violating those laws, he would be
24 constitutionally authorized to come to the officer's residence and "arrest" him at any time.
25 The officers observed that Myrland became very agitated, clenching his fists, and that his
26 face turned red.

27 When additional officers arrived on scene, Myrland was removed from the vehicle
28 and searched for officer safety. During the search, officers discovered that Myrland was

1 wearing a shoulder holster for the semiautomatic pistol under his jacket. Two additional
2 loaded magazines for the pistol were stored in the holster. Myrland told the officers he
3 owned the firearm to “shoot pitbulls.”

4 Myrland was arrested for driving while licensed suspended, and his vehicle was
5 impounded. During the course of his transport to the station, and after his release,
6 Myrland was still very agitated. Myrland informed the officer that the City had put the
7 officer in a “dangerous position” and that Myrland was in a position to “arrest” the officer
8 due to the “unlawful” nature of MYRLAND’s arrest. Myrland also stated that he was
9 extremely upset at the Mayor of the City of Kirkland, and would be submitting affidavits
10 to the Superior Court regarding her treatment of him.

11 2. Myrland’s Involvement with the “County Rangers.”

12 Myrland took his difficulties to a Sovereign Citizen’s group with members
13 in both Pierce and Skagit County. The group has an armed wing, the so-called “County
14 Rangers,” who serve as the Assembly’s “law enforcement” arm. County Rangers are
15 required to own firearms, and possess and display realistic-looking “badges” and
16 credentials.

17 Members of this movement generally believe the American government set up by
18 the founding fathers — with a legal system the sovereigns refer to as “common law” —
19 was secretly replaced by a new government system based on admiralty law, the law of the
20 sea and international commerce. They also believe that judges around the country know
21 all about this hidden government takeover, but are denying the sovereigns’ motions and
22 filings out of treasonous loyalty to hidden and malevolent government forces. Under
23 common law, or so they believe, the sovereigns would be free men. Under admiralty law,
24 they are slaves, and secret government forces have a vested interest in keeping them that
25 way. Members of this group often meet to discuss their shared ideology. One common
26 feature of this ideology is an alleged belief that the traffic laws of the State of Washington
27 do not apply to sovereigns. Members and/or associates of the Assemblies also often
28 engage in tax-related fraud schemes, issue fictitious and fraudulent financial instruments,

1 and also engage in real estate fraud schemes. All of these schemes share a common
2 element - a belief that current government is illegitimate.

3 Mr. Myrland was particularly well acquainted with one of the members of this
4 Sovereign group, Timothy Garrison. Garrison was Myrland's long-time "accountant,"
5 and the two had engaged in similar tax-related fraud schemes. A search of Myrland's
6 email account, pursuant to a warrant issued by this Court, revealed extensive contact
7 between the two men, and also with Garrison's wife C.G. Indeed, so close were the two
8 men that Myrland gave Pretrial Services Garrison's name as someone who could verify
9 his personal information.

10 As this Court knows, Garrison was himself the target of a related IRS
11 investigation. During execution of a search warrant at Garrison's house, agents located a
12 large cache of firearms and ammunition, notwithstanding the fact that Garrison was a
13 convicted felon. Garrison recently pleaded guilty to tax fraud. Garrison, as well as his
14 wife, is a confirmed member and officer in the Sovereign Assemblies, and also a County
15 Ranger, based on paperwork recovered during the search.

16 By his own admission in his letter to the Court, Myrland met several times with the
17 Assembly to present his "legal theories" and his plan to terrorize the Mayor of Kirkland
18 and other officials. An analysis of Myrland's email account showed email
19 correspondence with members of the Assembly regarding those plans, including emails to
20 Garrison, Garrison's wife, the self-appointed "President" of the Assembly K.R.S.,¹ and
21 another Assembly member, Raymond Leo Jarlik-Bell. Jarlik-Bell is also a confirmed
22 Assembly and County Ranger member, and is himself currently facing federal tax fraud
23 charges in this Courthouse (Dkt. # CR11-5047RBL). Included in these emails were
24 various drafts of a "writ" for the "arrest" of the victims in this matter, prepared by
25 Myrland, that he wanted them to approve.

26
27 ¹ K.R.S. is currently facing state charges in South Carolina for pretending to be a
28 government official.

1 In addition to their common membership in the Assemblies, all of these individuals
 2 share one other thing in common; all had made very similar, indeed almost identically
 3 worded, threats to “arrest” local law enforcement officials who they felt had wronged
 4 them.

5 Myrland, in his letter to the Court, intermittently attempts to distance himself from
 6 this group, claiming that he was not a member, that he did not really share their ideology.
 7 He goes on to claim that he was merely providing them with knowledge about the law and
 8 Kirkland’s “crimes,” and then disclaiming all responsibility for the outcome. The
 9 government respectfully submits that this attempt is completely unpersuasive.

10 3. The Threats.

11 Myrland sent the following email to the Mayor:

12 On Friday, September 3, 2010, I , David Russell; Myrland,
 13 will apply to a panel of Americans to offer evidence of
 14 felonious conduct on your part, which constitutes an ongoing
 15 threat to Public Safety, hoping to cause the issuance of a
 16 "WRIT OF PROBABLE CAUSE" to substantiate the arrest of
 17 your person under RCW 9A.16.020. Upon the issuance of
 18 said Writ, 50 or more concerned Citizens with knowledge of
 19 your crimes will enter your home and arrest you, to take you
 20 to competent authorities as provided by law. DO NOT
 21 RESIST as these Citizens will be heavily armed and will meet
 22 all resistance with all necessary force, as provided by law. If
 23 you default or otherwise do not appear, and if my application
 24 is granted, I would advise you to keep your front and back
 25 doors to your home UNLOCKED to better facilitate your
 26 lawful arrest.

27 Of particular concern, the threats on their face did not just involve the Mr. Myrland.
 28 Instead, they referred to a group of “heavily armed” citizens, who were authorized to “use
 all necessary force,” a clear reference to the Sovereign Assemblies and County Ranger
 groups he was meeting with.

This email was not the only threat. In addition to the threats made in person to the
 individual police officers, referenced above, Myrland made other threats via phone. For
 example, on September 3, 2010, a Kirkland Assistant City Attorney, O.R. received a
 telephone call on his home telephone. The caller identification system on O.R.’s
 telephone identified the number calling as XXX-XXX-9828, “David Myrland.” The male

1 caller left the following voice mail message: "Keep your doors unlocked. Don't resist.
2 You're going to be meeting people." The message was picked up by O.R.'s wife.

3 As set forth in the PSR, both victims took the threat very seriously. Both feared
4 for their own safety, and for the safety of their respective families. The Mayor in
5 particular altered her routine, changing when she went home, when and how she met with
6 constituents. Perhaps most important for sentencing purposes, the Mayor for a period of
7 time was assigned a security detail from Redmond PD. Redmond PD is not a particularly
8 large department, and pulling officers off their regular duties to guard the Mayor was in
9 fact disruptive of their operations, and included additional overtime costs.

10 4. State Charges - New Threats.

11 Mr. Myrland was charged in state court with making threats to public
12 officials and released on bond. After his arrest, state court judges and prosecutors began
13 receiving threats of their own, from various third parties. For example, on December 27,
14 2010, the City of Kirkland received a six-page letter from a "D.W." with an address in
15 Little Elm, Texas. The letter was delivered by U.S Mail. The letter refers to the elected
16 King County Prosecuting Attorney, Dan Satterberg, and also to O.R., as engaging in the
17 "malicious prosecution" of people who think like Myrland. It goes on to detail, at some
18 length, how the City of Kirkland violated MYRLAND's rights in regards to the traffic
19 stop referred to above, and how the King County Prosecuting Attorney was now
20 wrongfully prosecuting Myrland for the statements he made to the Mayor and the
21 Assistant City Attorney. The letter further states that it is "lawful for a private citizen to
22 use deadly force in attempting to apprehend a fleeing felon," and that "an assault is lawful
23 when necessary by a person arresting one who has committed a felony - that is, by a
24 private citizen." It concludes in part that "We the people see [the Mayor of Kirkland and
25 the Assistant City Attorney] as the criminals, and if Mr. Satterberg knows what's good for
26 him he'll either prosecute them instead, or he can expect the use of force against his
27 person if he intervenes on behalf of any criminal victimizing anyone I know. The same is
28 true of the Kirkland police and city officials."

1 Similar documents were filed in Court, containing signatures of known Sovereign
2 Assembly members, including K.R.S.

3 5. Federal Charges - Searches - Arrest.

4 Mr. Myrland was arrested pursuant to a Complaint on January 25, 2011, and
5 had his initial appearance that same day. Prior to coming to Court, Mr. Myrland was
6 provided his *Miranda* rights and made a post arrest statement. Mr. Myrland gave the
7 agents a lengthy account of his interpretation of his conflict with the City of Kirkland that
8 likely tracks his equally lengthy written statement to this Court. Throughout this account,
9 Mr. Myrland was visibly upset and angry. Mr. Myrland admitted he did send the
10 threatening emails to the Mayor of Kirkland on August 30, 2010. He further admitted he
11 did leave the threatening telephone message on the answering machine at the home
12 telephone number of Assistant Kirkland City Attorney O.R. on September 3, 2010. Mr.
13 Myrland stated he took these actions because the victims were not responding to his
14 numerous written communications. Myrland stated words to the effect of "They ignore
15 documents, so I stepped off of documents and did things off paper."

16 Mr. Myrland reiterated that the Mayor and O.R. would be arrested for what he
17 described as "felonies committed against my person." Mr. Myrland stated his
18 interpretation of the Washington Revised Codes, Section 9A.16.020, granted him the
19 authority to arrest any person he perceived as committing a felony. Further, he felt that
20 the powers of a Citizen's Arrest allowed him to force entry to the homes of any "felon"
21 and use any force required, including deadly force, to "arrest" them.

22 Mr. Myrland further stated if he was not able to "arrest" the victims, other people
23 would, though Myrland would not identify the other people. Myrland also stated the
24 other people would probably be armed, as bringing weapons along when "arresting armed
25 felons" sounds like a good idea. If the individuals being "arrested" got harmed in that
26 process, that is "their problem." Towards the end of the interview, Mr. Myrland was
27 asked what was going to happen with the Kirkland Mayor and ACA in the future. Mr.
28 Myrland reiterated that "They are going to be arrested, either by me, or someone else."

1 Defendant's home was searched pursuant to a warrant. During the search, agents
 2 recovered illegal controlled substances, two fully loaded, extended 30-round magazines
 3 for Myrland's 9mm pistol, two additional standard 16-round magazines for that same
 4 pistol, and over two thousand rounds of ammunition. The pistol itself was recovered later
 5 from a nearby pawnshop, together with two more 32-round extended magazines, as well
 6 as thirteen more 16-round magazines for this pistol.

7 This is, to say the least, an unusual number of magazines for a handgun. In total,
 8 Myrland, possessed four 35-round extended magazines, and eighteen 16-round standard
 9 magazines for his handgun. This means that Myrland had sufficient magazines to
 10 discharge 428 rounds of 9mm ammunition, before having to reload a magazine.

11 Agents also found a considerable volume of quasi-legal documents pertaining to
 12 threats to "arrest" government officials. One of the documents purported to be an
 13 "**EXTRAORDINARY WRIT OF PROBABLE CAUSE** for Citizen's arrest . . ." (emphasis in original) naming Washington State Governor Christine Gregoire and another
 14 individual, which was signed by Myrland and Timothy Garrison.

15 Agents also found and seized several unsigned versions of a "WRIT OF
 16 PROBABLE CAUSE" naming the Mayor of Kirkland, J.M., as well as the Assistant City
 17 Attorney O.R., as the persons to be arrested. There is a signature line for Myrland
 18 (although a notation indicated he "took no part in the deliberations"), identified as a
 19 "Special Private Prosecutor" for the "Washington State Public Safety Panel." There are
 20 *also* signature lines for K.R.S. (referenced above), who is identified as a "Senior Private
 21 Prosecutor" and Garrison, who is identified as a "Private Prosecutor." Finally, there is a
 22 signature line Raymond Leo Jarlik-Bell and his wife, mentioned above.

23 **B. PERSONAL CHARACTERISTICS.**

24 Mr. Myrland has a lengthy criminal history, albeit one consisting primarily of
 25 driving offenses. Despite its length and volume, none of his prior convictions score, so he
 26 is Criminal History Category I. Defendant's early family history appears unremarkable.
 27 While his parents divorced when he was quite young, his mother remarried and Mr.
 28

1 Myrland appears to have had no real issues with his step-father. His step-father
2 committed suicide in his senior year, and his mother died from cancer a few years later,
3 which was doubtless tragic for Mr. Myrland.

4 Mr. Myrland has, by his own admission, made a living over the last 20 years by
5 working as a “paralegal” or “legal analyst.” The investigation shows that Mr. Myrland
6 sells various “courses,” over the internet, including courses that purport to teach
7 individuals how to avoid paying income taxes, avoid complying with driving laws, and
8 the like. He also “appears” on behalf of various litigants in federal and state courts as an
9 “advocate.” Mr. Myrland engages in this activity notwithstanding the fact that he has no
10 law license or any formal legal training.

11 Mr. Myrland is a prolific emailer from the Federal Detention Center. Per policy,
12 all of Mr. Myrland’s emails are monitored and available to the government. Based on
13 those emails, Mr. Myrland intends to continue to sell his “courses,” and has in fact
14 directed others to do so while still in custody. The government will produce some of
15 these emails at sentencing as exhibits.

16 Put another way, Mr. Myrland appears to have been engaged in the unauthorized
17 practice of law, and promoting tax fraud, for a considerable period of time as his sole
18 means of making a living, and it appears that he intends to continue to do so in the future.

19 **C. PROCEDURAL HISTORY.**

20 Defendant was arrested pursuant to a Complaint on January 25, 2011, and had his
21 initial appearance that same day. His detention hearing was held the following day,
22 January 26, 2011. At that hearing, Pretrial Services recommended release on conditions.

23 Judge Tsuchida ultimately agreed with Pretrial, but characterized this as a close
24 case with concerning facts. A bond was issued, but the Judge immediately stayed his
25 decision. The United States filed a motion to reconsider the Magistrate’s bond decision
26 (Dkt. # 11) based on newly discovered evidence of somewhat similar threats made by
27 Myrland to judges of this Court, including Judge Lasnik and Judge Benton. After
28 reviewing the evidence, it is the government’s understanding that Pretrial Services

1 reversed itself and recommended detention. Judge Tsuchida decided to adhere to his
 2 earlier decision and denied the motion to consider on February 4, 2011 (Dkt. # 14). Judge
 3 Tsuchida stayed the release order pending and appeal to this Court, who reversed the
 4 bond and ordered Defendant's detention.

5 An indictment followed. Post-indictment, Mr. Myrland asked to meet with the
 6 agents and prosecutors to offer information he felt might be helpful regarding other so-
 7 called "tax defiers." However, Mr. Myrland offered no useable information. What was
 8 most noteworthy about the proffer was Defendant's hatred for Kirkland officials, and his
 9 almost messianic belief in the rightness of his behavior in this matter. Mr. Myrland
 10 pleaded guilty on July 27, 2011.

11 **III. GUIDELINE CALCULATION.**

12 The Government agrees with the Probation Office's Guideline calculation, with
 13 one key exception. Probation declined to assess the four-level increase for disruption of
 14 government functions, pursuant to U.S.S.G. 2A6.1(b)(4). As noted in both the PSR and
 15 in this memo, Kirkland PD assigned a security detail to the Mayor during the time period
 16 leading up to Mr. Myrland's arrest. Kirkland is a small department, and does not
 17 routinely provide the Mayor with security. Accordingly, Mr. Myrland's threats impacted
 18 the operations of the police department, pulling officers off other duties, and also resulted
 19 in the expenditure of overtime funds. In addition, the threats impacted the Mayor in the
 20 conduct of her duties, as noted in the victim impact section of the PSR.

21 Based on his letters to Probation and to the Court, the government also respectfully
 22 submits that Mr. Myrland has not, in fact, accepted responsibility for the offense. A few
 23 quotes suffice to illustrate this point:

24 Obey the law, liberty and justice for all, nation of laws, but
 25 when you try to access these things you learn that it's all just
 26 some sort of cruel joke because public servants have no
 honor, integrity, or conscience, especially in Kirkland."
Letter to Court at 7.

27 I'm guilty and I take full responsibility for having sent my
 28 email message, but it conveys no more than my intent to share
 evidence of crime with others, the fact that the accused would

1 be afforded the opportunity to appear and defend, and the
 2 prediction that other would act “as provided by law” to make
 3 an uneventful citizen’s arrest based upon reasonable suspicion
 4 that JM is a felon. *Id.* at 9.

5 . . .

6 Kirkland city officials and employees conspire to this day to
 7 falsely arrest me and to prosecute me for driving under a
 8 suspension Kirkland itself has caused, to imprison me for
 9 ninety days, they extort money from me through the U.S.
 10 mails when they know I’ve been deprived of a hearing,
 11 Kirkland refuses to hear motions to vacate, they refuse to
 12 register my correct address in their records, their municipal
 13 policy is to steal and sell my property and yours, and despite
 14 the language of 18 USC 241, 242, 1341 and others, they deny
 15 nothing yet remain as free as the wind. *Id.* at 9.

16 Admitting that he sent an email, but denying that it was an actual threat, and then
 17 claiming, in essence, that “the victims had it coming” is hardly acceptance of
 18 responsibility.

19 Unsurprisingly, Mr. Myrland’s statements to the Court are consistent with his own
 20 emails to friends and associates, except some of those are even more vitriolic. At various
 21 times, Myrland has sent or attempted to send complaints and quasi-legal papers calling
 22 the character of the agents, the AUSA and others into question. He has continued to
 23 maintain that he was entitled to make the threats he issued in this case. Most recently, he
 24 has encouraged an associate to file suit against the U.S. Attorney to obtain declaratory
 25 relief that the threats in this case were not improper. Again, the government will produce
 26 selected emails from Mr. Myrland illustrating these points at sentencing.

27 Based on Defendant’s statements, the Court should find that Defendant did not
 28 accept responsibility. Defendant is therefore Total Offense Level 27. At Criminal
 History Category I (which is arguably understated), this results in an advisory Guideline
 range of 70 - 87 months. The offense of conviction carries a sixty-month statutory
 maximum, however.

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III. RECOMMENDATION AND JUSTIFICATION.

The government respectfully recommends a sentence of 48 months. This is slightly above the bottom of the range as calculated by the Probation Office, and well below the range calculated by the Government.

Defendant's has made repeated threats over the years to "arrest" government officials using "deadly force." He continues to this day to apparently believe that he was in the right, and everyone else is in the wrong. Despite his guilty plea, he continues to argue that he had a legal right to make the threats he made; that they were not legally threats; and that he was in the right in virtually every respect.

Myrland's attitude is unfortunate. It is clear that Mr. Myrland is a very intelligent individual, although he is probably not as smart as he thinks he is - which is very smart indeed. He can be eloquent and persuasive. Properly channeled, Mr. Myrland would doubtless could be a productive member of society.

Unfortunately, Myrland's arrogance, his anger and his inability to even *consider* the possibility that he is in the wrong in this matter come through in his various letters to the Court and Probation. The evidence amply supports Probation's conclusion that Mr. Myrland remains a danger to the community and is a virtual certainty to re-offend. A lengthy sentence is therefore necessary.

The defense suggests that a lengthy sentence would be disproportionate in light of shorter sentences given in several other threat cases. The government respectfully submits that all three cited cases are wholly distinguishable. First, it is the government's understanding that all three individuals were intoxicated to a greater or lesser degree when engaging in their respective threat behaviors, and one has significant mental health issues. Second, all three individuals acted alone, and not in concert with others - unlike Mr. Myrland. Third, there is no evidence that any of them intended to actually carry out a threat to kidnap or injure anyone, again unlike Mr. Myrland. Last, but certainly not least, all three of the defendants in the other cases appear to accept the wrongfulness of their

1 conduct - again, unlike Mr. Myrland - and are therefore much less likely to re-offend
2 compared to Mr. Myrland.

3 **IV. CONCLUSION.**

4 For the reasons set forth above, the government respectfully recommends a
5 sentence of 48 months, to be followed by three years of supervised release.

6 Dated this 15th day of November, 2011.

7 Respectfully submitted,

8 JENNY A. DURKAN
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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via United States Postal Service.

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